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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,918	09/21/2006	Alexander Kaiser	31576/41843	5470
4743 7590 09/03/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357				
EXAMINER ADAMS, GREGORY W				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
09/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,918

Applicant(s)

KAISER ET AL.

Examiner

GREGORY W. ADAMS

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7 and 10-14 is/are rejected.
- 7) ☒ Claim(s) 4, 8 and 15-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 5, 7 & 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Correggi et al. (US 2003/0168314) (previously cited) in view of Jones (US 3,780,884), Lee et al. (US 5,868,549) and Rogers (US 2,864,516). Correggi et al. disclose

- a transposing device 10, 11, 31 for forming layers of plastic bottles that are fed in rows (generally indicated as 4),
- a pallet loader 5 for transferring layers,
- a conveyor zone 50 situated between a transposing device and a pallet loader wherein a conveyor zone is a sliding gripper 50 for a layer and a

gripper is movable between a normal parking station 3 of a transposing device and a normal receiving station 2 of a pallet loader 5 for layers formed by a transposing device,

- wherein a transposing device 10 loads a layer of plastic bottles to a conveyor zone 50 and wherein a pallet loader receives picks up a layers of objects plastic bottles from a conveyor zone.

Jones discloses a conveyor zone situated between a transposing device 44 and a pallet loader 2 wherein a conveyor zone is a sliding conveyor, e.g. table, 48 for a layer and a table is movable between a normal parking station of a transposing device and a normal receiving station of a pallet loader for layers formed by a transposing device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi et al. to include a table that moves horizontally between two positions, as per the teachings of Jones, to allow for accommodation of a myriad of sizes in layers. Lee et al. discloses a sliding table 50 that moves between a parking station and a receiving station. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to include Lee's sliding table as is well known in palletizers. C1/L11-17. And, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to combine Jones moving horizontal supporting conveyor with Lee's sliding table because all achieve a predictable result of palletizing layers of articles.

Rogers et al. disclose a buffer 10 for intermediate storage of one layer so that homogenous layer of articles can be formed on said buffer while a main are is receiving a respective layer. C6/L1-35. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to include a buffer, as per the teachings of Rogers et al., so that homogenous layers can be formed.

Allowable Subject Matter

Claims 4, 8, 15-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed July 28, 2009 have been fully considered but they are not persuasive. Correggi's horizontally sliding conveyor 50 conveys a layer between a layer forming transposing device 10, 11, 31 and a receiving station wherein a palletizer 5 grips a layer and places said layer on a pallet. As noted above the combination of Jones and Lee discloses a sliding table that moves a layer between a parking station and a receiving station of a pallet loader.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory W Adams/
Primary Examiner, Art Unit 3652